

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of the City of Sacramento, CA, for an order authorizing the City to: Convert a Private at-grade railroad crossing to a Public at-grade railroad crossing for the Freeport Shores Multi-Purpose Trail project. The crossing is located in the City of Sacramento, Sacramento County, State of California

Application 03-08-021  
(Filed August 21, 2003)

**O P I N I O N****Summary**

This decision grants the City of Sacramento's (City) request to convert a private at-grade highway-rail crossing (crossing) to a public at-grade crossing for the Freeport Shores Multi-Purpose Trail Project (Project). The crossing will be identified as California Public Utilities Commission (Commission) crossing No. 093-7.91.

**Discussion**

The City requests authority to convert an existing private at-grade crossing to a public at-grade crossing. City Utilities Department maintenance and operations personnel currently use the crossing to access the City water pumping facility. The proposed Project will extend an existing bike and pedestrian path approximately 3225 feet around the water pumping facility, across the crossing, across Freeport Boulevard and provide access to a public sports park complex.

The California State Parks owns the tracks which are used by the California State Railroad Museum (CSRM). The rail corridor is not contiguous and there is presently no rail traffic. CSRM desires to improve the rail corridor some time in the future in order to run an excursion train from Sacramento to Freeport. When CSRM proposes to improve the rail corridor for such use, the Commission's Rail Crossing Engineering Staff (RCES) will evaluate the safety of the crossing involved in this project and other crossings along the rail corridor.

The City proposed to install two Commission Standard No. 1-R (crossbucks), pavement markings and signage at the crossing. However, given the present conditions, the track is out of service. The City will install two Manual of Uniform Traffic Control Devices Standard No. R8-9 (Tracks Out of Service) signs, pavement markings, and advance warning signs instead. Pedestrians and bicyclists using the trail will be separated from the motor vehicles by fencing and bollards.

RCES staff has reviewed the location with respect to the need for grade separation, and concurs with the City that grade separating the proposed crossing is not practicable, because there are no active train operations at this time. The project is scheduled for completion by December 2004.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. On February 13, 2003, the City prepared, and on July 17, 2003, revised, a Mitigated Negative Declaration for the Project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et. seq.). CEQA requires that the

Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission's Consumer Protection and Safety Division-RCES has reviewed the Mitigated Negative Declaration for the Project and believes it is adequate for decision-making purposes. Safety, transportation, and noise are within the scope of the Commission's permitting process. The City's Mitigated Negative Declaration did not identify any potential impacts related to the safety, transportation or noise associated with the Project.

RCES inspected the site of the proposed crossing. After reviewing the need for and safety of the proposed crossing, RCES recommends that the requested authority sought by the City be granted for a period of two years.

Application 03-08-021 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3118, dated September 4, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Notice of the Application was published in the Commission's Daily Calendar on August 27, 2003. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3118.

This is an uncontested matter in which the decision grants the relief requested.

**Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

**Findings of Fact**

1. Notice of the application was published in the Commission Daily Calendar on August 27, 2003. No protests have been filed.
2. The City requests authority, under Public Utilities Code Section 1201-1205, to convert a private at-grade crossing to a public at-grade crossing for the Project. The crossing will be identified as Commission crossing No. 093-7.91.
3. Public convenience, safety, and necessity require the modification of the subject crossing.
4. Public safety requires that the crossings be equipped with two Manual of Uniform Traffic Control Devices Standard No. R8-9, Tracks Out of Service signs, pavement markings and advance warning signage.
5. The City is the lead agency for this project under CEQA, as amended.
6. The Commission is a responsible agency for this project, and has reviewed the City's environmental documentation specified in this decision, and finds the documentation adequate for decision-making purposes.
7. On February 13, 2003, the City prepared, and on July 17, 2003, revised, a Mitigated Negative Declaration for the Project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment.
8. Safety, transportation and noise are within the scope of the Commission's permitting process.
9. The City's environmental documentation did not identify any significant adverse environmental impacts from the project related to safety, transportation, or noise.

**Conclusions of Law**

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

**O R D E R**

**IT IS ORDERED** that:

1. The City of Sacramento (City) is authorized to convert a private at-grade highway-rail crossing (crossing) to a public at-grade crossing for the Freeport Shores Multi-Purpose Trail Project. The crossing will be identified as California Public Utilities Commission (Commission) crossing No. 093-7.91.
2. The crossing shall be equipped with two Manual of Uniform Traffic Control Devices Standard No. R8-9, Tracks out of Service signs, pavement markings and advanced warning signage.
3. No later than six months prior to resuming service on the rail corridor, the California State Railroad Museum shall notify the Commission's Rail Crossing Engineering Section staff, at which time all affected crossings, including the proposed crossing, will be evaluated.
4. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between the City and the California State Parks (parties), which owns the track. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.
5. Within 30 days after completion of the work under this order, the City shall notify the Commission's Rail Crossing Engineering Section in writing, by submitting a completed Standard Commission Form G (Report of Changes at

Highway Grade Crossing and Separations), that the authorized work was completed.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth above.

8. Application 03-08-021 is closed.

This order is effective thirty (30) days from today.

Dated \_\_\_\_\_, at San Francisco, California.